

ΛΑΦΥΡΟΛΟΓΙΑ:

OR, A

4

DISCOURSE

CONCERNING

PLUNDER:

Wherein the Legality of the same
is proved by several Presidents and Ar-
guments, brought from the Laws of
God, of Nature, and Nations:

As also several Questions are proposed, and Ob-
jections solv'd; the whole being rescu'd from
Prejudice, and Popular Mistake.

With some brief REFLECTIONS on

St. *MARY's* and *VIGOR*.

By *THO. HESKITH, M. A. &c.*

Ὁ δὲ νόμος, ὁμολογία τις ἐστίν,
ἐν ᾧ τὰ κατὰ πόλεμον κρατέμμεθα:
τῶν κρατῶντων εἶναι φασί, &c. *Arist* l. i. *Politic.* c. 4.

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ΑΠΟΔΟΤΕΛΑ

012 COLLEGE

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1918

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TO THE
Honourable *EDWARD FOXE*,
Esq; Colonel to one of Her
Majesty's Marine Regiments.

S I R,

WHEN once I resolv'd to publish these following
Sheets, there could be no manner of Dispute to
whom I should dedicate them : They do of Right
belong to you, upon these two Accounts.

First, In Point of Gratitude, You are, Sir, in a peculiar
manner my Benefactor ; neither shall I ever be ashamed to
own, that I stand indebted to your Beneficence, for a considera-
ble part of that little which I enjoy in this World.

Secondly, This following Discourse doth of Right belong
unto you ; not only because you were actually in the Descent,
but by reason of that Honourable Post and Station you had
there ; especially for that distinguishing Bravery and Conduct,
which you made appear at our last Efforts at La Rota.

Tho' the Design of this Discourse be to prove, that all
Mankind have a just Right and legal Title to all the Spoil and
Booty that's taken from an Enemy, after a solemn Declara-
tion of War ; yet you, Sir, don't want this Apology, nor
stand in need of those Arguments, I have here brought in vin-
dication of this Point : Because in this Case you were pleas'd
freely to renounce all manner of advantage that came this
way : Not that to plunder a publick Enemy is a Crime in it

The Epistle Dedicatory.

self, or that you might not have done it as well as others, *Salvo Honore*, but by reason of a certain admirable Temper of Mind (which the Greeks call *μεγαλοθυμία*) which in a great measure seems peculiar to you.

I think, Sir, in this Case I may say of you (and I hope without Vanity) what once was said of M. Porcius Cato (after a rich and mighty Conquest) that he frankly relinquished all the Advantages of that mighty Spoil: Denying absolutely to take any thing, save what was necessary for the Support of his Body.

I was once in the mind, Sir, to have writ the History of the Descent, having some considerable Memoirs of that by me; but accidentally meeting with two or three State-Maxims, I concluded 'twas best letting it alone, until I had well acquainted my self with the profound Theories, and nicer Speculations of Humane Polity: But when I have read Men, as I have Books, (and to be free with you, Sir, I design for the future to employ my Thoughts a little that way) you may expect a Specimen of my Proficiency in that Mysterious, but Noble Art.

I hope, Sir, you'll excuse me for making mention of this Particular in an Epistle Dedicatory, which probably had been much more proper in a Preface to the Reader: But my Design in this Undertaking is brevity, which Argument being join'd with that of your Candor, and the Sincerity of my Intentions; I cannot but flatter my self with the Hopes of a favourable Acceptance; which being granted, 'twill undoubtedly oblige me upon all Occasions to be with all possible respect in the World,

Your Honour's

Most Affectionate, and
Most Humble Servant,



Tho. Heskith.

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(1)

A
DISCOURSE
OF
PLUNDER.

THE late Descent to *Cadiz* hath made such a mighty Noise in the World, that it hath not only fill'd the *European*, but also the *Asiatick* and *African* Courts, with various Reflections. This hath not only been the Subject of the more piercing and comprehensive Genius's, but even of the more plebeian and uncultivated Souls.

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But

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But this Scene having been acted, and over for some time, one might have supposed, that every thing relating to it, would have been hush'd, and slept accordingly: But the Event of this hath prov'd contrary to others; for the Fame of St. *Mary's* and *Vigo* (in lieu of growing less) doth every Day, like the shriller Eccho, give a deeper Thunder than the first Discharge.

That I may therefore destroy all Prejudice of this Nature, I'll endeavour (God willing) in the following Essay, to shew what Right and Title every Officer and Soldier hath to the Spoil of a publick Enemy; and withal demonstrate, that whatever is taken from such, becomes actually the Goods of him that takes it.

And, that I may observe both Order and Brevity in what I do, I'll examine the true Import of the Word *Plunder*; and shew you what is its genuine, its natural, and proper signification.

And First then, this Word may be taken, either in a free, large, and unbounded Sense, or else in a restrained one, and by way of appropriation.

First, It may be taken largely, or in a loose Sense, for Theft or Robbery, Rapine, Pillage, Foraging, and Extortion: And these may be considered with respect to Persons or Things, Sacred or Civil, Publick or Private.

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If we consider the Word Plunder, with respect to Things Sacred, it's call'd Sacrilege; and he, or they, that do plunder, or take away any thing of that Nature, are call'd *Sacrilegus*, and *Sacrilegi*: Thus the Scholiast, upon *Fufinian's* Code, defines a Church-Robber to be such an one who takes away such things that are devoted to the Service of God, whether it be out of a Place Sacred, or otherwise.

Sacrilegus est ille, qui Sacrum subrapuit: Sive de loco Sacro, sive non. Cod. Lib. 1. c. 136.

But if this Word relate to things of a Civil and Publick Nature, it's call'd *Peculatus*, a robbing of the Royal Fiske or Common Treasury; and such Robbers are call'd *Peculatores*: And of this kind of Plunderers there hath been of late some very famous, who have made it their sole Business, as *Tully* saith of *Anthony*, to live after the manner of Robbers, that they may have as much as they can fairly carry off.

Erat ei vendendum Latronum ritu, ne tantum haberet, quantum rapere potuisset. Cic. in M. Antonio Philip. Sec. Oratione. 44.

But then again, this Word may refer to particular Persons, and to private Concerns; and then it's call'd *Simplex Furtum*, or Simple Theft: And of this Evil, not only Men in a private, but also in a publick Capacity may be guilty: This the *Roman* Orator asserts, and makes good in several of his Pleadings against *Verres* the *Sicilian* Prætor.

And

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Cic. Orat. 1.
pro P. Quinct.
& in M. Anton.
Philipp. 12. O-
rat. 54.

And in many of his Orations, there's nothing more frequent than to meet with such Sayings as these: *Famâ & Fortunis Spoliari, omni Dignitate, ac spe Salutis*: to be plunder'd of ones Reputation and Estate, of ones Dignity, and of the very Hopes of Safety.

And thus I have briefly considered this Word Plunder, according to its first acceptation; viz. in a diffusive, extensive, and unlimited Sense.

It remains therefore that I proceed to consider it, in a more natural and proper signification; and in this case it's usually taken for Prey, Booty, or Riches, or for any other valuable Effects, which are, or may be taken from any Monarchy, Aristocracy, Democracy, or from any other Government or Society of Mankind, after the solemn Declaration of War. This is the true Notion and Import of the Word, and may, I think, very well be term'd an adequate and comprehensive definition of the thing. For a solemn Declaration of War legitimates Plunder, or whatever is taken under that Name, either from a single Person, or from a Multitude; whether it be in a Battle, before, or after it is done.

Having thus fix'd the true Sense of the Word, I shall endeavour to make it appear, That all Spoil or Plunder that's taken from a Common Enemy, whether it be more or less, becomes actually the Goods of him or them that take it.

This

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This is clear first from the Law of God. And to make this good, I shall begin with that illustrious Instance of *Abram's* pursuing, engaging, and conquering *Chedorlaomer*, and his Ally-Kings; returning home blest with Victory, and loaden with the mighty Plunder of *Sodom* and *Gomorrhah*. And when *Abram* heard that his Brother was taken Captive, he arm'd his trained Servants born in his House, 318, and pursued them unto *Dan*. And he divided himself against them, he and his Servants by Night, and smote them, and pursued them unto *Hobab*, which is on the left hand of *Damascus*. And he brought back all the Goods, and his Brother *Lot*; with the Women and People, Gen. 14. 14, 15, 16. And the King of *Sodom* went out to meet him (after his return from the slaughter of *Chedorlaomer*) and said unto *Abram*, give me the Persons, and take the Plunder to thy self; V. 17, and 21. Our Common Translation hath it, take the Goods to thy self. And *Pagninus*, in his Interlineary Version of *Arius Montanus*, saith, *Cape Substantiam* (i. e.) Take to thy self the Booty or Prey; and the 72 render it, ἄρῃς ἑαυτῷ τὰ βόδια, Take the Cattle to thy self. I take this Expression to be a *Synecdoche*, when a part is understood by the whole, or the whole by the part. For in the more early and innocent Ages of the World, before Galleons and Ingots of Gold, and Pigs of Silver were so very common, Mens greatest Fortunes then consisted in Flocks, and Herds, and Cattle; this being the

Gen. 26. 13,
14, 30, 43.

principal part of their Substance, or their Riches consisting mostly in this, their Gain or Loss took its Denomination accordingly. But *Abram* answer'd the King of *Sodom*, and said: *I have lift up my Hand to the Lord, the most High God, the Possessor of Heaven and Earth, That I will not take from a Thread even to a Shoo-Latchet; save only that which the young Men have eaten, and the Portion of the Men which went with me, Amer, Ehcol, and Mamre, let them have their Portion*, Gen. 14. 22, 23, 24. (*I. e.*) Tho' I by reason of my Oath and Vow to God, will not take the least Moiety of that Spoil and Plunder (which by my Conduct and Valour) I have taken from the Enemy; yet let all those Men that fought under me, have their respective Dividends, in proportion to their Posts and Merit.

But methinks I hear some object, and say, this Instance is so far from illustrating the Point in hand, that it rather seems to justify the contrary: For *Abram* (say they) was a Man of incomparable Piety and Justice, and therefore refus'd to partake of that Spoil, which he believ'd to be unjustly taken.

I answer first, *Abram* did not refuse to partake of the Spoil, because it was unjustly taken, either from the Ally-Kings by *Abram*, or from the Kings of *Sodom* and *Gomorrhah*, by *Chedorlaomer* and his Confederates: We cannot suppose the first, except at the same time we conclude, that holy *Abram* could be guilty of Robbery and Murder: Nor
can

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can we conclude the second, because *Chedorlaomer* had declared War against them, upon the account of their revolting from him. For the Text saith, that *Twelve years they served Chedorlaomer*, (i. e. they were tributary to him) *and in the thirteenth year they rebelled against him.* Gen. 14. 4.

But *Abram* refus'd to meddle with the Plunder which he had taken from those Kings, because he made a solemn Vow to God, when he drew up his Troops to pursue them, that if he would succeed his Attempt, he would not enrich himself with one Farthing of that Spoil. This was a most solemn Oath, which *Abram* made in the Presence of God; and, by consequence, 'twas religiously to be observed.

Secondly I answer, That to partake of this Booty could not be a Sin, because *Abram* consented, that all those Men that were with him in the Engagement should have their respective shares: For it can never be suppos'd, that so great a Man as *Abram* (who's call'd by God the Father of the Faithful) could be guilty of so gross an Error, as to encourage and perswade Men to the doing of that, which he believ'd in his Conscience to be unlawful: This flatly contradicts that illustrious Character which God is pleas'd to give of him: *For I know him* (saith God) *that he will command his Children and his Household after him, that they shall keep the way of the Lord, to do Justice and Judgment, &c.* Gen. 18. 19.

Another

Another Instance from Scripture, in order to justifie what I have laid down in *Thesi* concerning this Matter, shall be that from *Joshua*, the 8, and 2. *And thou shalt do unto Ai, and her King, as thou didst unto the King of Jerico: The Spoil thereof, and the Cattel thereof shall ye take for a Prey unto your selves.* The *Septuagint* translates it $\kappa\epsilon\iota\ \tau\omicron\upsilon\ \pi\tau\iota\omega\acute{\omega}\nu\ \alpha\upsilon\tau\eta\varsigma\ \pi\epsilon\gamma\omicron\upsilon\mu\acute{\omicron}\varsigma\ \sigma\tau\alpha\upsilon\tau\omega.$ (*I.e.*) *Frumentando Frumentaberis*, in Foraging thou shalt forage, or in Plundering thou shalt plunder: (*I.e.*) Thou shalt take all their Substance where-ever thou finds it, without any manner of regard, either to the Quantity, or to the Quality thereof. For the Word $\pi\epsilon\gamma\omicron\upsilon\mu\acute{\omicron}\varsigma$ doth not only signifie Forage; but it's also taken for all manner of Booty, which Soldiers get when they go a foraging: And the Verb $\pi\epsilon\gamma\omicron\upsilon\mu\acute{\omicron}\varsigma$ imports both to forage, and to lead Captive: So that these two Words ($\pi\epsilon\gamma\omicron\upsilon\mu\acute{\omicron}\varsigma\ \pi\epsilon\gamma\omicron\upsilon\mu\acute{\omicron}\varsigma$) being join'd, they include a mighty Emphasis, a Figure, wherein more's to be understood than what's express'd.

But before I dismiss this Instance, 'twill be worth our while to consider the Purport of that Expression, the Spoil thereof, and the Cattel thereof shall ye take for a Prey unto your selves.

Tho' *Joshua* was Captain General of that Army, and was commanded by God to go against *Ai*, yet he did not presume (after the manner of some, to take all the Plunder, or the greatest part to himself: but to be content with a moderate share. For God said, take the Spoil unto your selves; (*i.e.*) let

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let it be divided amongst the Officers and Soldiers, according to their respective Posts and Merits. God did not say to *Joshua*, Take thou the Spoil unto thy self, or do thou divide it amongst thy principal Officers, but let every one, have a share in it, that went against that Place: For there's nothing more agreeable to Reason than this, that they who share in the common Danger, should partake of the common Advantage.

*Non dicit soli
Imperatori, vel
paucis Tribunis,
&c. ubi enim
pericula, ibi &
commode com-
munia esse æ-
quum est. Ma-
lius in Loc.*

Thus the *Israelites*, whenever they war'd against the *Aborigines* of *Canaan*, so soon as ever they subdu'd them, they shar'd the Spoil. *Deut. 20. 14.* And the Cattel, and all that's in the City, even all the Spoil thereof, shalt thou take unto thy self; and thou shalt eat the Spoil of thy Enemies, which the Lord thy God hath given thee.

And *Joshua* when he'd conquer'd the *Canaanites*, and the Men of *Israel* had Peace on every side, he order'd 'em to go to their several Abodes, that they might enjoy, and divide the Spoil of their Enemies.

And he spake unto them, saying, Return with much Riches unto your Tents, and with very much Cattel; with Silver, and with Gold, and with Brass, and with Iron, and with very much Raiment; and divide ye the Spoil of your Enemies, &c. *Josh. 22. 8.*

And thus pious *Asa*, after his defeating *Zerah*, and a Million of Men, carried off all the Plunder of that formidable Host; -- and they carried away very much

D

Spoil;

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Spoil; and they smote all the Cities round about Gerar, and spoiled them, for there was exceeding much Spoil in them: they smote also the Tents of Cattel, and carried away Sheep and Camels in abundance, and returned to Jerusalem. 2 Chron. 14. 13, 14, 15.

I might, if I pleas'd, bring a 100 more Instances from Scripture to make good this Argument: But I suppose that there's as much Strength and Truth in one single Divine Authority, as there is in many: Besides, should I enlarge upon Arguments of this Nature, 'twould swell the Essay beyond its intended Bulk.

And thus much for the Law of God. I shall now step on to consider that of Nature and Nations.

And first for the Law of Nature.

Now by the Law of Nature, I understand such a Principle of Reason, as is connatural to every individual of the rational Species. Thus *Cicero* tells us, that the Law of Nature is right Reason, congruous to Nature, and diffused amongst all.

Lex naturalis est recta ratio, naturæ congruens, & diffusa in omnes, &c. Lib. 1. de Legib.

Omni enim in re, consensus omnium gentium; Lex Naturæ putanda est. Tuscul. Question lib. 1.

Est illa quæ humana menti insidet, ad discernendum bonestum à turpe, &c. De Legib. lib. 1.

And elsewhere the Agreement of all Nations in every thing, is reputed to be the Law of Nature, because the Consent of all is the Voice of Nature. And *Suarez* defines it to be something inbred in the Soul of Man, whereby he discerns honest from dishonest, &c.

Now

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Now even in this Sense, and according to this Acceptation, it's lawful to spoil, and to plunder a declared and publick Enemy.

First, because the Teachings of Nature instructeth us to teach others, as they do, or would treat us, wer't in their Power: As for instance, should any endeavour to destroy, and plunder our Lives and Fortunes, the Dictates of Nature are, that we should forthwith obviate the Design, frustrate their Attempts; and return, if possible, the Judgment upon their own Heads. The Truth of this Notion, the very Doctrine of the Gospel owns, if it be taken in a publick and political sense as I do: *For with what Judgment (saith our Saviour) ye judge, ye shall be judged; and with what measure ye mete, it shall be measur'd to you again.*

Again, the Law of Nature suggests, that it's lawful for me to take away that Man's Goods, whose Life I may lawfully take away at the same time: For if I have Power over that which is greater, I have a Power over that which is less. Now, the Riches and Profits of this World are much inferior to the Life of Man, tho' it be taken in an animal Sense, and purely with respect to this World; and therefore, by consequence, if Nature gives me a Right to the greater, it much more justifies my Title to that which is less. This very thing the *Roman Orator* justifies in express Terms, *Neither is it (saith he) against the Law of Nature to spoil that Man of*

Neque est contra naturam, spoliare eum si possis, quoniam honestum est necare.
De Offic. lib. 3.

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all the Effects he hath, whom thou mayst honestly kill if thou canst. For by the Law of Nature every Man

Grot. de Jur.
Bell. & Pac.
Lib. 3. c. 4.

hath a just Dominion and Lordship over the Body and Goods of a publick Enemy, whenever they happen to fall within his Power. Neither doth this Truth only hold good in case of a just War, but also on the other side: For suppose a War should be commenced unlawfully, or upon unjust Grounds, which must unavoidably be on one side or the other; yet is not my Enemy responsible for any manner of Damage he hath done to my Body or Estate; neither can I pursue him as a Thief or Homicide upon this score. *Quicquid in Hostibus feci, jus Belli defendit*, saith *Eriy*, lib. 28. *Whatever we do to our Enemies, the Law and Privilege of War defends us.*

Thirdly, Without doing this there's no Self-preservation, which appears to be the first Principle of Nature, the most clear and indisputable Idea of any thing, that can possibly fall under the Judgment of Mankind. For 'tis unreasonable for any Man to suppose, that he can sufficiently guard and secure his Life and Fortune against the restless Endeavours and Attempts of his Enemies, except he use such means as are proper for that end and purpose. Now there's nothing can give Men a greater Security against the Power of their Enemies, than the weakness thereof; and there's nothing I know of that can so effectually weaken any Government or Society of Mankind, as is that spoiling and

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and plundering of their Substance and Riches. This is a Truth attested with so many fresh Experiences, that there's no disputing it. For what Poverty's to a single Person, 'tis the same to a Community: This makes us good-natur'd, humble and submissive; removes the proud Flesh, and makes Men willing to hearken to Reason, and to embrace Justice: But vast Riches make Men haughty, turbulent and unruly; Oppressors, Tyrants, and Contemnners of the Poor, the Weak and Feeble. Slavery's the Effect of a Despotick Power, and Arbitrary Government is the Issue of infinite and unbounded Riches: There's no way therefore to cure and remove those Evils, but by destroying the Foundation thereof.

The best way then to preserve our selves, is to wound our Enemies; and the best way to wound our Enemies, is in the most sensible part; and the most sensible part of our Enemies, is their Riches and Trade: Therefore to wound 'em in their Riches and Trade, is the best way to preserve us.

And if this be so, then the consequence must be, that to destroy, or to carry off the Riches and Effects of our Enemies, is a Dictate and Ray of Nature, *Quod probandum erat* —

But then again negatively; not to do this, is to strengthen and encourage our Enemies, to weaken and dishearten our selves, and, consequently, to endeavour our own Ruin and Destruction: For he, or they, who concur directly, or indirectly, to the taking away of their own Lives, are by our Laws

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term'd

term'd *Felo*, or *Felones de se*, (i. e.) Self-Murderers. Now, whoever they be, who neglect, or refuse to destroy or spoil an Enemy, when 'tis in their Power so to do, they do actually, and in an explicit Sense, become guilty of that charge by their so doing.

It remains now in the next place, that I attempt to make good this Assertion, from the Law of Nations: But because Topicks of this nature are so very numerous, that were they laid together, they would compile a mighty Volume, I shall therefore, for brevity's sake, only produce the more illustrious.

*Ea enim quæ
ex hostibus ju-
sto bello capi-
mus, jure na-
turæ vel gen-
tium nostra fi-
ant, &c Lib. 2.
Tit. 1.*

Joachimus Mynsinger, in his *Schoolia* upon *Justinian's* Imperial Institutions, tells us; That all those things which we take from our Enemies in a just War, do become ours by the Law of Nature and Nations. And in answering an Objection he proceeds:

If (saith he) *the Law of Nature doth justify every private Defence, how much more will it vindicate the publick?* Whence it comes to pass, that whoever offends in exercising Force and Violence, to the disturbing of humane Society, the defence of War is lawfully made use of against such; neither is it reasonable, that either the Goods or Persons of such Offenders should be free from Plunder and Destruction.

Thus *Xenophon*, in his *Education of Cyrus*:
ὅτι ἐν παντί ἀνθρώποις ἀίδιος ἐστὶν ὁ νόμος.
Lib. 5. *There is* (saith he) *an eternal Law amongst Men, that whenever a City is*

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is taken from an Enemy, all the Booty and Riches thereof immediately become the Victors. And Plutarch, in his Life of Alexander, declares, That whatever the Conquered possess'd, the moment they were conquered, it ought forthwith to be called the Goods of the Conqueror. And to this purpose, Philip, in his Epistle to the Athenians, tells 'em, πάντες τὰς πόλεις οὐκ ἔμεν ἢ τῶν τε γόνων παρ-
εχόντων, &c. We all enjoy and possess (saith he) those Towns that were either left us by our Ancestors, or which we now possess by the Right of War.

To this purpose, Livy making mention of Marcellus the Roman Consul after the taking of Syracuse, and with how great Integrity he had settled all the publick Affairs in Sicily; whereby he had not only established his own Reputation, but augmented the Glory of the Roman People, by plundering and carrying away all the Ornaments, the Ensigns and publick Records of Syracuse to Rome. He tells us that these were the Spoils of the Enemy, which they had got by the Right of War.

And the same Livy elsewhere pursuing the same Topick, affirms, That the Roman Legates being sent to Philip, in order to discourse him about Corinth, and some other Cities of Thrace, he answer'd 'em, As for Corinth (saith he) I will particularly debate that Matter with the Roman General my self: However, in the interim, you may ask him, Whether he

*Hostium quidem illa spolia,
& parva Belli
Jure, Livij, lib.
25. c. 40.*

*De Corintho,
cum Imperatore Romano de-
liberaturum esse, &c. Livij,
Lib. 32. cap.
35.*

thinks

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thinks it more unreasonable, that I should give up those Cities which I had taken by the Law of War, or those I enjoy by an Hereditary Possession? By which Argument Philip fairly insinuates, that he had as good a Title to the first, as to the last, and that the Romans might with equal Justice demand the one as the other.

This was the Opinion of Caius the Lawyer, Whatever (saith he) is plunder'd from an Enemy, it immediately (by the Law of Nations) becomes his that took it.
L. Natur. S. ult.

And *Theophilus*, in his Institutions, calls this *φυσικὴν κτήσιν*, a natural Acquisition, or a proper Possession and Enjoyment; because in this case not any particular thing is consider'd, but simply what's bare Matter of Fact; and from this very Consideration doth that thing call'd *Fus*, (*i. e.*) Right or Title, derive its Original. Because all Dominion and Lordship over things, or any Right, Title, or Property, we either have to, or can have in 'em, proceeds either from a Divine, Natural, or a National Law.

If we therefore reflect upon the Law of Nations, we shall find this to be an incontestible Verity, That whatever's taken from an Enemy by the Law of War, it incontinently becomes theirs that took it: And by the same Law, whatever's taken from an Enemy, which a little before was in the possession of a third Person, it forthwith becomes theirs that took it, notwithstanding any Pretension, Title, or Claim made by that third Person to the contrary.

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trary. And the Reason's this, because the Law of Nations gave our Enemies that took it first, a just Title to all they took by the Law of War; and, consequently, they being in possession of the said Effects when we took 'em, they immediately become ours by the said Law.

This is very evident from the Case of *David* against the *Amalekites*; for he did not only recover the Spoil and Booty that they had taken from him, but also all that Prey and Riches which the *Amalekites* had taken from the *Philistins*; this *David* possess'd as his own, and gave it to others as he pleas'd. But what he took in this case from the *Amalekites* by the Right of his Sword, he had a just Claim and Title to it by the Law of Nations, notwithstanding any Remonstrance to the contrary.

Halicarnassens, in the 6th Book of his History, gives us a noble Instance of this nature: *The Volsci, an ancient People in Italy and the Aborigines of the City Anxur, demanded (saith he) of the Roman Senate, that they might be repossess'd of those Lands which Titus Largius had taken from 'em: To which Demand the Dictator answer'd: We Romans (saith he) believe no Estates, Riches or Possessions, to be more legal, honest, just, and true, than those we have taken by our Bow and our Sword; nor can we be induced by any foolish compliance, to destroy those Monuments of our Prowess and Bravery; which we must unavoidably do, should we restore what we have taken from you. No, O Volsci! be this far from us; for we are resolv'd not only to share what we have taken*
F from

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from you with our Fellow Citizens, but even to transmit the same to our Posterity.

And again, in the 7th Book of the said Historian, we find the Romans answering the *Volsi* to the same purpose: *We esteem that to be the best Tenure or kind of Possession, which is got by the Law of War; not that we are the Authors of this Law, or that it was instituted by us; but rather that this was given us by the Gods: This being the Opinion and Practice of all Nations, whether Greeks or Barbarians; and therefore we will not give away that Right which we have to those things which we took from you in War, lest we should entail upon our selves a lasting Infamy, by yielding up that through Cowardise and Fear, which we have purchas'd by our Valour, by our Courage and Conduct.*

Thus then it's clear from the Law of God, of Nature, and Nations, that it's lawful to plunder a publick Enemy; and that whatever Spoil, Riches, or Booty is taken from such, doth most justly and rightly become his or theirs that take it.

However, for a further Confirmation of this Matter, I shall, *ex abundanter*, or by way of Corollary, make this good from the greatest Generals in this Case.

*Præda omni Castrorum
Militi data, Victorem
exercitum opulentumque
Gallicis Spoliis Romani
reduxit, &c. Liv. lib. 7.
c. 24.*

Thus *Papilius* the Consul, after he had engag'd the *Gauls*, and by the Bravery of the *Romans*, had quite rooted that numerous and barbarous Host; being Master of the Field, and consequently

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consequently of all the Baggage, he divided the Spoil of the Enemy amongst the Soldiers, marching his victorious Army back to *Rome*, richly laden with *Gaulish Plunder*.

Thus *Hannibal* the *Punick* General, after he had besieged and sacked the rich *Carteja*, and march'd his Victorious Army into Winter-Quarters, he fairly divided the Spoil amongst 'em, and punctually paid 'em all their Arrears; and by this means (saith the Historian) he wonderfully engaged to himself the Minds and Affections both of Citizens and Soldiers. And 'tis not to be doubted, that good Payment is the Life of an Army; that this strengthens the Nerves of all Endeavours, and fixeth our Resolutions in the boldest Attempts, according to that of an incomparable *Scot*: *Nel auro efficacius, præsertim in Marte & amore, &c.*--

Victor exercitus, in hiberna deductus est ibi large partiendo prædam, stipendia præterita cum fide exsolvendo, cunctis civium sociorumq; animis in se firmatis, &c. Liv. lib. 21. 5.

Barcl. Euph.

And when *Marcellus* had taken *Syracuse* by Assault, after he had ordered a Questor to guard the Publick Treasury, he gave the Plunder of the City intirely to the Soldiers, having first set a Safeguard upon all those Houses which had submitted to the *Roman* Government.

Liv. lib. 25. 31.

I'll but add one Instance more, and it shall be from our own Annals: When *Edward* the Third had besieged *Calais*, *Henry* Earl of *Derby* and *Lancaster*

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caster (afterwards *Henry* the Fourth) having in fundry Battles worsted the Duke of *Normandy*, and taken several considerable Places from him: Amongst the rest, he took the Famous Town of *Brigerac*, which he gave intirely into the Hands of the Soldiers, permitting every one to seize what House he pleased, and to convert all therein to his own Profit. Upon this it happen'd, that a certain Soldier, call'd *Reth*, hit upon a House, wherein the Collectors of the Publick Revenue (for a greater Safety) had stow'd a vast Summ; upon which he immediately acquaints the Earl, supposing that he did not intend so great a Treasure for a private Share: To whom the Earl reply'd, That *he intended every thing should be according to his Proclamation; and therefore, let the Treasure be what it would, 'twas all his own.*

Nec Lex est Fastior ulla —

But some may reply, and say, should it be granted to each private Soldier, to plunder where and when he lik'd best, then in this Case his Condition would be much preferable to that of an Officer; who is always oblig'd to attend his Command, and to obey such Orders as are given him by the General, or by the commanding Officer for that time. I answer, 'tis not to be suppos'd, that any private Centinel can have any Privilege in this Point before that of an Officer; for as every Officer is bound to obey his General, or Commander in chief, so is every Centinel to obey such Orders as they receive from their respective Officers.

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cers. For as no Officer is to abdicate his Command, or to leave his Station (let the Temptation of the Plunder be what it will) upon pain of Death, or at least of being cashiered ; so, in like manner, every Centinel's bound to keep his Post, upon the like Penalty.

However, for the farther clearing of all Difficulties ; and for the solving all Objections of this, and the like Nature, I shall premise these following Particulars.

All Riches and Booty that's got by a Land-Army in War ; is either in the midst of a Battle, or after it's done : either in the taking of a Town by Assault, or plundering it after it's yielded : As for what's got by Foragers and Moroders, we'll wave that as foreign to our purpose.

First then, Whatever's got in the Heat of Battel by any Officer or Soldier, it immediately becomes theirs that took it, notwithstanding any Pretension, Right, or Claim made by any (whosoever) to the contrary. As for instance, Suppose an Officer or Soldier should in an Engagement meet with the Marshals of *France*, *Vendome* or *Boufflers*, and should have the good luck either to kill or take 'em Prisoners, should either of these Heroes have the Crown-Jewels of *France* about 'em, that Officer, or that Soldier (be what they will) have an indisputable Right to all : For the Law of Nature and Nations do grant this, as the Reward of their Bravery, and the Price of their Blood.

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But then, as for the Plunder of a Camp after the Battel's over, this is a quite different Point. For in this Case, it hath been very usual for great Generals, to prohibit Officers and Soldiers from plundering; lest whilst they were busied about that Affair, the Enemy should rally, and regain the Victory. But so soon as the Victory's well secured, the General commonly gives Orders to spoil the Enemies Camp, and all their Baggage; with this reserve, that a certain Portion of the Plunder should be kept for them who were actually upon Duty; as also for those that were sick and wounded.

And the same Method was followed (by those illustrious Sons of *Mars*) whenever any Towns were taken by Assault, or yielded by the Enemy, except in this last Case; for in this they sometimes used a different Method: For if the Town yielded, was large, and well stor'd with rich Booty, the General commonly order'd an Invoice to be made of all the Effects, with a just Estimate of their Quality and Goodness; and when this was done, upon the first occasion, the Whole was exposed to Sale, and the Money thence arising divided amongst the Officers and Soldiers, in proportion to their Posts and Service.

But before I can proceed any further, 'tis necessary that I obviate an Objection, which will undoubtedly engage me in this Place.

'Tis true, say some, the Law of Nature and Nations seems to favour this Opinion, and be on this side the Argument; but we must now consider
Nature

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Nature as debauch'd, and out of order, and consequently to be no just Rule and Standard, whereby to judge and to measure our Actions.

And tho' those Instances brought from Scripture, are a good Argument to prove, that God allows of the Destruction and Plund'ring of his Enemies, when he gives a peculiar Order and Commission for that end and purpose, as he did to *Abram*, *Josbua*, and to several other pious Kings and Princes; yet what's this to us who are Christians, who pretend to be Followers of Christ, and to believe the Truths of his Doctrine, which is a Doctrine of Peace and Forgiveness?

To the first I answer: Tho' our Protoplast, by Disobedience and Unbelief, weaken'd all the Faculties and Powers of his Soul, so that every thing within him became feeble and out of order; yet, notwithstanding all this, the first Principles of his Reason, the greater Lines of his Duty, remain'd in some measure legible and apparent: There's still so much Light and Reason left within us, as is capable to convince us of our Miseries, to instruct us in, and to put us upon the Practice of those first, those great and mighty Laws of Religion and Justice.

For tho' it be granted that Nature's debauch'd, and hath lost very much of its native Perfection; and consequently, as such, is no fit Rule to square our Actions by: Yet there's so much Light from that dull Taper, as will guide us to our Duty, if wisely managed by Reason and Reflection.

But

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But, besides this, we, who are Christians, have the Advantage of Reveal'd Religion; which, when rightly apply'd, will undoubtedly make good all other Deficiencies.

But then,

Secondly, I answer: Tho' the Gospel of Christ be a Doctrine of Peace and Forgiveness, yet it no way prohibits our engaging in a just War, especially when 'tis for the Preservation of our Religion, of our Laws and Liberties.

And that I may clear this Point, I shall first of all shew, that to wage War is consistent with a State of Christianity:

And Secondly, I'll produce such Reasons as will justify the Fact.

And the first Instance I shall bring from the New Testament, is, that of *Luke 3. 14.* *And the Soldiers likewise demanded of him, saying, and what shall we do? And he said unto'em, Do violence unto no Man, neither accuse any falsely, and be content with your Wages.* *MUNDIVA DIXERUNT, Nè in quenquam insolescat, nè opprimatis aliquem, neminem male tractatis, &c. (i. e.)* Don't behave your selves imperiously; don't oppress, or treat any barbarously, in exacting any thing either by force or fear: This must be understood concerning the Innocent, and those that were not their declar'd and publick Enemy. For when any Government or Society of Mankind declares War against another, or gives just reason for another to declare War against them; in this case, those Expressions of Oppression, Force, Violence, Cruelty,

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Cruelty, Exaction, &c. in strictness of Terms, are Improprieties in Speech, and consequently unap-
plicable. For the Law of War legitimates all these
things; so that properly speaking, they're nothing
but the Executions of Justice.

The Baptist then in this place doth not com-
mand the Soldiers to cast away their Arms, or to
renounce that Oath of Fidelity they'd made to their
Prince or General; (as things that unqualified 'em
for the Reception of the Doctrine of Christ) but he
strictly forbids 'em, under any pretence of their
Office, to vex, afflict, or to rob any of the com-
mon or meaner people, or falsely to accuse the In-
nocent; which Crimes have been too common a-
mongst Men of this Profession in all Ages.

But as Mr. *Calvin* observes in this
Case; if the Doctrine of the Gospel ^{Instit. lib. 4. c. 12.}
was to prohibit and condemn all
War, then the Baptist, who knew very well what
the State and Nature of that Law was to be, (in
lieu of bidding the Soldiers be content with their
Wages, and to do violence to no Man) would imme-
diately have charg'd 'em to have left that Employ-
ment, as inconsistent with the Law of Christ: But
this he did not; and therefore the conclusion must
be, That to wage War is consistent with a State of
Christianity.

A second Instance shall be, that of our Saviour,
mentioned by St. *Matthew*, 22. 21. Give unto Caesar
the thing that is Caesar's. Now, tho' this passage
doth not directly and explicitly assert the Lawful-

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ness of War, yet it doth it virtually, and by way of consequence. Our Saviour here commands Tribute be paid unto Cæsar, not only for the Support of himself and Family, but for far greater ends and purposes; to sustain the Grandeur of Imperial Majesty, the Peace, the Safety, and Happiness of his People and Government. Now this can never be done (all Circumstances consider'd) without a competent Army; and a competent Army can never be supported without considerable Summs; and such Summs can never be made good without Tribute: Therefore Tribute is order'd by our Saviour to be paid unto Cæsar, for the maintaining of an Army by which he may be capable to gain the true Ends of Government, which is Honour, Peace, and Happiness.

Now it's as impossible to gain those Great Ends, without the aforesaid Means, as it is for any Government, to cure or restrain Blasphemy, Perjury, Robbery and Murder, without Laws, Judges, Juries, and Executioners: But this last is morally impossible, *Ergo & prius.*

But then again, that War is consistent with Christianity, is evident from the Example and Practice of the most pious Men in all Ages. Now if War had been a Sin, holy and good Men would never have engaged in it: But we find that *Abram*, *Moses*, *Josua*, *David*, and *Josiah*, were great Warriors; and therefore it could not be sinful in it self: For whatever was sinful, directly and *in se*, was as much prohibited under the Old, as under the New Law.

And

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And when the *Centurion* came unto our Saviour for the Cure of his Servant, had spoke highly in his Commendation, and prais'd his Faith: He did not command him to forsake his way of living, as inconsistent with his future Happiness; which he would never have omitted if it had.

Mat. 8. 10, 13.

And the very same we may say of *Cornelius* the *Centurion*; notwithstanding his Profession, the Spirit of God calls him a just and a good Man, and one that feared God, &c.

Acts 10.

But this Character is altogether incompatible with a sinful Employment. *Er.*

And also after our Saviour's Ascension into Heaven, we find in several Histories, that pious and good Men have been engaged in War, even under Heathen Emperors: Witness the thund'ring Legion that serv'd under *Marcus Aurelius* in his *German Expedition*; by whose Prayers and Intreaties God was pleased miraculously to relieve that Army. Now these would never have engaged in War, if it had been a Sin; neither would God have answer'd their Prayers at the Expence of a Miracle.

Tertull. ad
Scap. cap. 4.

This very Doctrine *Eusebius* himself declar'd was the receiv'd Opinion of his Age; and *Basil*, in his Oration concerning the Practices of 40 Soldiers that suffer'd Martyrdom, tells us plainly, that there were several Men (famous for their Piety) who fought under the Conduct of Heathen Emperors:

Lib. 8. c. 4.
& Lib. 6. c. 10.

rors :

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rors: And we find that History every where abounds with the glorious Characters and Achievements of Christian Princes; such as *Constantine*, *Theodosius*, *Valentinian*, *Charles the Great*, *St. Maurice*, with his *Thebean Legion*, and an almost infinite number of other good Men, that were engaged in War in all Ages; and yet notwithstanding this, we cannot meet with one Instance, wherein any of those Christians, whether Princes or private Men, were reprov'd by the pious Bishops of these first Ages, for their so doing.

Sed ad Johannem in Aegypti eremo constitutum, quem Deus servum prophetandi Spiritu praeditum fama crebrescente didicerat, misit, atque ab eo nuncium victorae certissimum accepit, S. Aug. de Civ. Dei, lib. 5. c. 26.

Nay, so far were the Saints of these first Ages from declaring War to be unlawful, that very often they encouraged it, by prophesying and promising of Success. Thus *Theodosius* before he engaged *Maximus* the Tyrant, consulted *John* the Egyptian Hermit (who was endu'd with a Spirit of Prophecy) whether he should engage the Tyrant, and what the Success should be? To which Message he answer'd, that the Emperor should certainly obtain the Victory.

I shall only add one Argument more from Reason upon this Head, and so pass on to answer some Objections that seem to militate against this Doctrine.

If it be lawful then for any Government to protect, secure, and defend it self against all intestine Brolls and Civil Disorders, and to punish all such as Enemies to the Publick Weal and Happiness; then

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it must be much more lawful to defend it self against the Invasions of a publick Enemy, by the application of all such means as are proper for the repelling of force, and for the destruction of that Power which endeavours to subvert and destroy the same: And if so, then 'twill be lawful to engage in War, when there's no other way left for the Security of Government; for it's absolutely necessary, in order for the Peace and Happiness of Mankind, that all the Enemies and Disturbers thereof should be subdu'd, and brought to condign Punishment: This is apparently the Law of Nature, and the Practice of all Nations; and, consequently, 'tis impossible that the Gospel of Christ should destroy such a Principle as this.

But that this Doctrine may appear with a greater Lustre, I'll remove those Objections which seem to obstruct the same.

First, from that of St. *Paul* to the *Romans*, *Avenge not your selves, but rather give place unto wrath; for 'tis written Vengeance is mine (saith the Lord) and I will repay, Rom. 12. 19.* I answer: This Expression of St. *Paul*'s doth no more conclude War to be unlawful, than it doth conclude Judges and Magistrates to act unjustly, when they condemn Criminals, or punish Disturbers of the Peace: But whenever Judges and Magistrates do this, they cannot be said properly to revenge themselves, but to execute Justice and Judgment, by supporting the mighty Ends of Government. This Advice then of the Apostle's holds good, only with regard to

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particular Persons, and to some private and particular Concerns : This the very Context makes plain, *If it be possible, live peaceably with all Men* ; intimating that sometimes 'twill be utterly impossible for us to do this ; or supposing 'twere in our power to be at peace with our Adversaries, yet sometimes it may so happen, that this we cannot do without violating that Justice we owe to God and Man.

Secondly, from that of the Prophet *Isaiah*: *They shall beat their Swords into Plough-shares, and their Spears into Pruning-hooks : Nation shall not lift up Sword against Nation, neither shall they learn War any more, Ch. 2. 4.* I answer : The Prophet in this Passage doth not prohibit the Use of War, nor the Lawfulness thereof ; but, by way of Prophecy, he fairly represents unto us the true State and Nature of Christ's Spiritual Kingdom ; and how much the Doctrine of his Gospel would advance beyond any other Institution the true Happiness and Interest of Mankind.

But then again some may instance and say, if an universal Peace and Charity was to be the distinguishing Character of Christ's Gospel Kingdom, how comes it to pass that there are so many Wars and Confusions amongst Christian Princes ; so much Injustice, Rape, and Violence, daily committed by those that profess to be under that Government ? I answer : The Gospel of Christ is the best natur'd Institution that ever the World receiv'd ; and that there is not any one Set of Laws that we know of, that was ever so well fitted for the Ends of Government

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ment as this is. Would but Kings and Subjects suffer themselves to be govern'd by such Laws and Measures as the Gospel dictates, we should soon find a quite different Face of things in *Christendom*: At this rate, there would be nothing to be seen but Peace (with all the blessed Effects of it) in all our Assemblies, whether publick or private; every one sitting under his own Vine, and enjoying the Fruit of his honest Labour. The reason then why Christ's Gospel doth not always promote Peace, especially amongst those who profess to believe it, doth not happen from any defect in that glorious Institution, but from the malignity and wickedness of Men's Minds and Affections; from that arbitrary Lust, and those unbounded Passions, that govern and command the inner Man: As St. James admirably expresth it; *From whence come wars and fightings amongst you? Come they not hence, even from those lusts that war in your Members?* The Gospel of Christ is an excellent *Catholicon*, an infallible Cure for all the disorders of the Soul, if rightly apply'd; but if it don't then gain this end, 'tis not to be imputed to any inefficacy, or want of virtue in the Medicine, but only to the neglective, peevish obstinacy of the Patient.

A 3d and last Objection in this Case, shall be that from St. Matthew: *But whosoever shall smite thee on the right cheek, turn to him the other also: Love your Enemies, and do good to them that hate you: For all they that take the Sword, shall perish by the Sword, &c.*

Cap. 5. 39, &

44.

Cap. 26. 52.

I

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I answer : These, and all other Expressions of the like nature, are to be consider'd only with regard to Men of a private Capacity ; whether we understand 'em *sub ratione Præcepti vel consilii* ; whereby our Saviour adviseth Men rather to Patience, and to make use of Forgiveness, than to pursue those that have done 'em an ill turn with Malice and Revenge ; because this is generally of worse consequence, than to forgive the first Trespas, or to bear patiently the first Indignity. But these, and such like Expressions, can by no means belong to Magistrates, and to such who are in Authority ; but to declare War, and to pursue it, doth not belong to private Revenge, but to publick Justice : And tho' to love our Enemies be a general Command, belonging as well to Men in a publick as to those that are in a private Capacity, yet this may very well consist with a Judge or an Executioner in the doing of his Office.

Again, neither do these and the like Sayings always belong to private Men, as a Command, or as a Counsel, but sometimes the one, and sometimes the other : When they are given as Precepts, they're to be understood only as they qualifie and prepare the Soul, in order to sweeten and correct the morosities of Nature, and to give Men such a meek and quiet Disposition of Mind, as may fit 'em to pass by Injuries and Affronts, rather than to offend God. So that to observe these Injunctions (if one smite thee on the one Check, turn the other ; and if any take thy Coat, let him have thy Cloak also) are not to be understood any otherwise, than
when

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when the Service and Honour of God requires it: For, if we consider these Expressions in any other respect, they're only to be understood as bare Counsel and Advice; and sometimes scarce that; especially when to yield the other Cheek, and to give my Cloak also, hath no other effect than to invite, to tempt, and encourage my Adversary to a second, but worse Action.

*Vindicta enim
ultima, justeq;
possit, quando
nullus jam re-
stat correctionis
locus, &c. Aug.
Epist. 5. ad
Marc.*

I'll only crave leave to start one Question more (which will be very proper upon this occasion) and speak directly to the same; and so conclude this Discourse with some Reflections upon St. *Mary's* and *Vigo*.

Seeing then that by the Law of God, of Nature, and Nations, 'tis lawful to invade a Publick Enemy, to burn, ruine, and destroy, to plunder and spoil whatever comes within the Invader's reach: The Question will be, whether, or not, Temples, Altars, and all other sacred Utensils, devoted to the Service of God, do not plead an Immunity in this Case? (*I. e.*) Whether all Princes and Generals, ought not to protect and guard (as much as in 'em lies) all Persons and Things Sacred, from military Rage and popular Fury? Or whether by the afore-said Laws, whatever is sacred becomes equally a Prey to the Conqueror, as well as that which by contradistinction is call'd common or prophane?

This Proposition is subtil and nice, attended with much Intricacy, because it's problematically stated,

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having

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having powerful Advocates on both sides, im^e pugning and defending the same: I shall therefor^e in the first place produce some Arguments and Reasons, that are brought for the affirmative, and then, in the next place, I'll answer directly to the Question negatively, *viz.* That 'tis not lawful to plunder and spoil such things, as are devoted to the Service of God; and give such Reasons and Arguments for the same, as are concluding, and *ad rem*.

Pomponius the Lawyer asserts, That even Things sacred, and devoted to pious Uses, (by the Law of Nations) do actually, and justly become the Goods of those that take 'em: because (saith he) War makes no distinction between things sacred and common; and therefore gives a just Title to the one as well as to the other: For when any Place is taken, whether by Assault or Capitulation, all things then (saith he) cease to be sacred. Thus, when any Society, or Body of Men, yield themselves to another, (being forc'd thereto by the Fate of War) whatever they were possess'd of at the time of Capitulation, must unavoidably become theirs to whom they yield.

In opposition therefore to this Opinion, I shall modestly offer these few things: Tho' it be true what this Great Man saith, That War makes no distinction; and that it confounds and shuffles all things promiscuously together, whether prophane or sacred; yet the consequence is lame, and the conclusion illogical; therefore the Invader hath an equal Right to both; (*i. e.*) as well to those Things that are sacred, and devoted to the Service
of

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of God, as to that which is otherwise : For'tis no ways feasible, nor indeed to be suppos'd, that any Man can alienate, confer, or give away any Right

*Regula item
est neminem
plus juris in
alium transfer-
re posse, quàm
ipse habet. Myr-
sing. lib. 2 tit. 8.*

or Title to any thing (to any Man whatsoever) who hath no manner of Right and Title to the same thing, at the same time. This is an undoubted Maxim amongst all Lawyers, as being one of the chiefest Principles of Reason : But this is our case, as to things sacred and holy ; they are alienated and given to God, devoted to his Worship, separated and set apart for his Service and Honour ; and therefore, *ipso momento*, that they are thus alienated, he or they that have devoted and consecrated the same to God, do, by virtue of that alienation, for ever after forfeit all manner of Claim, Right, and Pretension to the same. Now, as to the case in hand, suppose a Town were yielded, wherein there were many Temples adorn'd with many rich, but sacred Utensils, those very Men that yielded the Town, with all the Riches and Effects thereof, yet they have (properly speaking) neither Right nor Power to give to the Conqueror those Temples, nor the sacred Utensils thereof.

But some may instance, and say, admit, or let it be granted, that those Men (that yield to the Conqueror all their secular Concerns and Int'rests) have no manner of Power or Right to transfer to the Conqueror Things sacred, and dedicated to God ; yet may not the Conqueror by the Law of War,

and

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and by the Right of the Sword, claim these as his due?

I answer negatively that they cannot, that is lawfully, and by the Law of God : For no Man can, or ought in reason, to claim any Title or Property to any thing sacred, except he's well assur'd (of what's impossible to be known) that God hath resign'd all manner of Right, Claim, Title, and Pretension to such things devoted to him.

I do not speak here what the Sons of Violence may do, (for indeed what is it they may not do) but what it is they may do lawfully. All Things sacred to the Worship of God are intirely and transcendently his, either by his own immediate Appointment, or else by the immediate appointment of those whom he hath separated from the World in an eminent and extraordinary manner to wait at his Altar, and to consecrate both Persons and Things for his Worship and Service. Now, in this case, no Man (even by the Law of War) can have any Right to that which is God's by the most solemn appropriation ; except he'll dare to invade the Divine Prerogative, to attack Heaven, and to plunder Omnipotence, (if I may so speak :) For if, according to the Opinion of the most judicious Canonists and Civilians; *Oppignerari autem non possunt res Religiosæ* ; (i.e.) *Things sacred cannot be pawn'd or pledg'd* ; how much more sacrilegious, and unlawful will it be, for any Man to appropriate that to a private or common use, which was solemnly devoted to the Service of God? Things once dedicated to the Worship of God, can never be revers'd, never (properly

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perly speaking) alienated to common Uses ; they may indeed be prophaned by ill Men, fully'd and abused by sacrilegious Hands, as the Vessels of the Temple were by the Debauches of King *Belshazzar's* Court ; but the Character's indelible, and consequently can never cease, whilst the Thing's in Being. Irreligious Monsters may erect their Ensigns in the House of God, defile his Sanctuary by their Wickedness, break down all the carved Work and Ornaments thereof with Axes and Hammers, turn God's House into a Stable, or a Den of Thieves, (as did *Genfericus* the *Vandal*-Prince in the taking of *Carthage* ; and as did our godly Reformers, in the late unhappy Anarchy of 41.) but yet the relative Sanctity remains, maugre all the Assaults of Infidels, the bold Attempts of Enthusiasm to the contrary.

*Locus enim
quo ædes Sacre
sunt ædificatæ,
etiam diruto æ-
dificio sacer ad-
huc manet. Pa-
pin.*

But 'tis probable that some may reply, and say, that there is to be found in History many Instances to the contrary ; and that several Men well skill'd in the Laws have been of different Sentiments.

Thus *Pausanias* tells us, that whoever they were that conquered Cities, all Things sacred were as much at their disposal, as the Cities themselves ; and he instances in the taking of *Troy* : *When* (saith he) *that glorious Place was sack'd, a famous Image sacred to Hercemian Jove was given to Sthenelus, one of the Grecian Captains, as a Reward for his Merit and Service.* And *Thucydides*, in the 4th Book of his History tell us, that this was a common Practice amongst the *Grecians*, that whatever Conquests were

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made, whether large or little, that all Things sacred belonging to the same, became the Conquerors. And of the very same Opinion we find *Plutarch* to be, in the Life of *Tiberius Gracchus* : *There's nothing* (saith he) *so sacred as that which is dedicated to the Honour of the Gods ; and yet upon occasion it's lawful to make use of these, neither is there any Inhibition for transporting the same.* And *Tacitus* giving an account how *Germanicus* treated the *Marfi*, when he subdued that barbarous Nation : *Caesar* (saith he)

— *Profana simul & sacra, & celeberrimum illis gentibus Templum, quod Tanfane vocabant solo æquantur, &c.* — *Annal. lib. I. c. 31.*

having divided his plundering Legions into four Parts, in order to make a more effectual devastation, for the space of 50 miles he destroyed all with Fire and Sword, sparing neither Age nor Sex, Things profane nor sacred : He levelled with the Ground the Temple call'd Tanfane, so much celebrated by that People.

I shall therefore, for brevity's sake, omit other Instances of this nature, and answer to what's propos'd and laid down already ; and because all these Objections here made are of the self-same nature and tendency, I presume and conclude that one Answer will atone for all.

'Tis true whatever's here objected, is plain Matter of Fact, being attested with no less Evidence than is an impartial Relation of the most celebrated Historians of those Ages they lived in : However the Answer will be very easie, if we do but consider the far different Circumstances of Heathenism and Christianity.

Paganism

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Paganism indeed had Temples, Altars, Priests, and Sacrifice; (these always being Relatives) but these were as supposititious, as false and scandalous as the Deity they ador'd, or the Gods they serv'd: Such as their Gods were, such were their Temples, their Priests and Altars, and all their sacred Utenils; but their Gods were counterfeit, a Dream, the Birth and Issue of Poetick Rage; and consequently, 'twas impossible to violate, or to profane those Persons and Things (which either had no Existence, or supposing they had) were more wicked and ungod-like than those that plunder'd and destroy'd 'em. Pagan-Temples, Priests, and Altars, were consecrated to Dæmon-worship, or to the Service of Devils; and therefore 'twas no Sacrilege, no Rapine or Injustice to spoil and ruine the same: For whoever they be who endeavour to destroy Idolatry (such as the Heathen Worship was) altho' it be done with a principal Design to serve themselves, yet implicitly and virtually speaking, it may properly be call'd a good Work, forasmuch as this contributes in some measure to introduce and lay the Foundation of a better Religion.

But as for Christianity, 'tis the most rational and the purest Institution that ever appear'd in this World: 'Tis such a Religion as God himself is pleas'd to own, by declaring that he's the Author of it; and by attesting all the Truths therein contained, with an incontestable Set of Miracles. Now, as God is the Author of the Christian Religion, (*i.e.*) of all its Truths and Doctrines; so in like manner he hath consecrated and set apart a particular
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Number and Order of Mankind, to instruct and govern all those who live within the Laws of that Institution; and hath promised to assist and support the same until the Consummation of all things. So that there's a vast difference between Paganism and Christianity; the one's instituted by Devils, the other by God; Christianity's a pure, a holy, and a good Religion, Paganism's a cruel, a bloody, a vile, and an ungodly Religion, if I may so call it: The Ministers, the Temples, the Altars, and other things devoted to the Service of God under the Gospel, are holy, and are not to be separated from that Worship, to which they were dedicated; but Pagan-Priests, Temples, Altars, and other Utensils, they're abominable, not having the least Shadow of true Sanctity, being all contrary to the Laws of God, and obnoxious to his Vengeance in this, and the other World. Now, tho' Pagan-Temples and Altars were plundered and spoiled, destroyed and ruined, according to the foregoing Instances, yet this is no Argument that Christian Temples may; that those Things sacred to the Worship of the True God, may be profaned and violated by the Sons of Men, because those Things that were devoted to the Worship of Idols were. This will be a very weak Argument, and a false Conclusion, except we'll prefer a false to a true Religion, the Worship of Devils to the Worship of God: And if this be so, then the consequence must be, That tho' it be lawful to plunder Heathen Temples and Altars, to destroy, or take away whatever's devoted to their Idolatrous and Superstitious

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Superstitious Uses; yet it doth not follow, that therefore 'tis lawful to plunder, or spoil those Temples and Altars that belong to the True God; or to alienate such Things as are consecrated to his Honour, to any private Interest or secular Concern.

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Having thus briefly cleared what I proposed at first, I shall conclude this Discourse with some modest Reflections upon St. Mary's and Vigo.

ON Saturday the 15th of August, our Army being landed under the Auspicious Conduct of his Grace the Duke of Ormond, on Sunday the 16th they march'd to *la Rota*, being distant from the Place where they landed about two Leagues: Near which Town the Duke was pleas'd to order that the Army should encamp, in order to refresh themselves, to wait for the landing of the Dragoons and Artillery; and to receive such Orders and Instructions, as were absolutely necessary for that Juncture. For tho' the Duke had landed an Army of Regular Troops, yet it was not with any Design to invade, to ravage and destroy the *Spaniards*, but to protect them in all their Rights and Privileges, as well Sacred as Civil. Now this was absolutely necessary, not only with regard to the Motives and Reasons of the Descent, but also with respect to the Army, that both Officers and Soldiers might know how to behave themselves, according to the first Intention of their going thither; but without all Controversie this was to be understood conditionally, upon this account
that

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that the *Spaniards* would receive and treat them as their Friends and Allies; but if they should endeavour to oppose 'em, and to join the *French* Partizans, then the *English* and *Dutch* were free from their Engagements; nor was it reasonable that upon this score they should be responsible for any Misfortune or Calamity that would unavoidably follow such a refusal.

The Consideration of this Clause one might reasonably suppose would be of great consequence, in order to clear any doubt or scruple about the plundering of *St. Mary's*.

And therefore, I presume, 'twill not be improper to set down the Declaration at large, as his Grace was pleased to order the Publication of it at his first coming on the *Spanish* Coast.

August the 21st. N. S.

THAT whereas Her Majesty the Queen of Great Britain, having been pleased to give him the Command of the Forces, which Her Majesty had joined with those of the States General, for asserting the Rights of the House of Austria, in pursuance of their Treaties of Alliance with the Emperor: His Grace judged it necessary before he made use of the said Forces, to declare that he did not come thither to possess himself of any place of the Spanish Monarchy in the Name of Her Majesty, or of the States General of the United Provinces; or to introduce

duce therein the usual Troubles and Calamities of War, by the way of Conquest, but rather to defend the good and loyal Subjects of the said Monarchy, and to free them from the insupportable Slavery whereto they are brought, and sold to France, by some disaffected Persons. Wherefore the Design of Her Majesty, and the States General, being only to assert the Rights of the House of Austria, His Grace declared, that all good Spaniards that should not oppose his Forces, should be protected in their Persons, Estates, Privileges, Religion, &c. But if contrary to Expectation, they did not concur with Her Majesty's and the States General good Intention, His Grace took God to witness, that then the Hostilities committed by his Troops under his Command must be laid on the Spaniards themselves; who having so fair an Opportunity to shew their Loyalty, and to follow the Motives of their Obligations and Interest, refused to embrace it.

On Friday the 21st, the Army under his Grace's Command march'd into St. Mary's, all the Troops quartering within the Town, except 4 Battalions that encamp'd without, in order to prevent a Surprize. On the 25th the Army marched out, and encamped at St. Victoria, about a Mile from St. Mary's; and the Day following the aforesaid Declaration was read by the Provost-Martial at the Head of every Battalion, and thorough the Town; strictly prohibiting any Person to

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to plunder (of what Character soever) upon no less Penalty than that of Death.

Thus his Grace used all that Precaution and Conduct, all those wise and engaging Arts that became a brave and an experienced General, omitting no Method or Opportunity whereby he might gain the *Spaniards* to a true Sense of their Duty, and to undeceive them in their vain and foolish adhering to the Interest of the House of *Bourbon*.

Now, seeing that the *Spaniards* rejected all those kind Proposals, which were made them by Her *British* Majesty, and the States General; were bent and fully resolved to oppose the Design of our Descent, to defeat the very End of our coming thither: And seeing they appear'd actually in Arms against us, and withstood our Troops as much as in them lay, (and by consequence forfeited by their so doing all manner of Claim, Right, Title, or Pretension to any of the aforesaid Advantages contain'd in the Declaration) I cannot conceive it's possible to make any Apology for the *Spaniards* in this Case; nor do I understand how any material Objection can be made against the Army for plundering of *St. Mary's*.

'Tis true, I must confess there were some Disorders committed in the plund'ring of *St. Mary's* (for in such Cases 'tis almost impossible to think otherwise) but this did not happen from any want of Conduct in his Grace; for (as I hinted before) he did every thing that became the most prudent and experienc'd General; but this was chiefly occasi-

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oned by the universal Abdication of the Inhabitants from the Proximity of our Troops, but particularly from the rich and mighty Spoil of that great Town.

But to go on to that of *Vigo*.

On *Monday* and *Tuesday*, the 14th and 15th of *September*, our Troops were imbarck'd with our Artillery and Horses; and on *Sunday* the 20th, about two in the Morning, we weigh'd; and on the 25th, the Admiral receiv'd Advice that the *Spanish* Galleons, with the *French* Men of War, were at an Anchor in *Vigo*-Harbour: Upon which having call'd a Council of War, in order to concert and determine the management of that Affair, 'twas forthwith resolv'd to attack the said Forts and Ships; which Resolve was put in execution on *Monday* the 12th of *October*, about three in the afternoon.

The *French* indeed fir'd very smartly from several Batteries, that they had rais'd in order to obstruct our Attempt; and, to render the thing more difficult, besides the Boom that was stretch'd from side to side, they had moor'd two Ships Head and Stern (as Batteries to rake us fore and aft), having 78 and 70 Guns; the first being then commanded by their Admiral, now Mareschal *Chateaurenault*, call'd the *LeFort*; and the other, *L'Esperance*, a Ship taken from the *English* in the late War.

And as our Ships were making ready to go in, our Troops were landed, in order to march to the back-part of the South-Fort, that we attacking 'em
on.

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on every side, the Conquest might be the more easy. This Project being well laid, the Success was answerable: For upon the approach of the Van of our Army, a great part of the *French* were oblig'd to quit their Guns, that they might be the better able to guard their Trenches and Outworks against us; but, after some Dispute, our Granadeers, by a mighty Bravery, forced the *French* from their Outworks, and made themselves Masters of the Fort: We lost in this short, but noble Action, Capt. *Ramsley*, with some of our Granadeers; besides there were some Gentlemen of Character wounded, viz. Col. *Seymour*, Col. *Pierce*, Capt. *Talmash*, &c. This last Gentleman was so dangerously wounded, that the Shot went almost quite thorough, the Ball being cut out near the *Spina dorsa*. All the *French* and *Spaniards* that were in this Fort, were either kill'd, or made Prisoners of War: As for the *Gallician* Militia, they run all away upon the very first approach of our Army, without almost firing one Shot; and upon a modest computation, they that were then present were reputed to be at least 15000: But so far were these *Spaniards* from assisting the *French*, that several of the *French* that fled to 'em for Safety, were robb'd, kill'd, and stripp'd by them; being treated with the same Barbarity with which they did those *Dutch* and *English* that fell into their Power: upon which I heard Monsieur *Daliegre* (Commander of the *L' assure*, who was Rear-Admiral *pro illâ vice*) declare, that the *Spaniards* were a pack of mere

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mere Poltrons; and that he was extreamly sorry, that his Master the King of *France* should be any way concern'd directly, or indirectly, with such a Set of Scoundrels as they were.

But that I may be brief, and return to the Point in hand: This was probably, for the time being, one of the warmest Disputes in the World (I mean by Sea) considering those few Ships that first made the Attack, and underwent the burden of that day: As for Vice-Admiral *Hopson*, he behaved himself in that Action with all that Courage and Conduct, with that Resolution and Presence of Mind, which became a brave *English*-Man, and for which he deserves for ever to be ranked amongst those Mighty Heroes, who have ventured their Lives, and all that's dear to them for the Honour and Safety of their Country.

As for what Quantity of Gold and Silver (whether form'd or unform'd) the *Spaniards* had carried off clear before our Forces had marched to *Rodendell*, 'tis very uncertain; nor can we ourselves well account what we have got from them, because several considerable Summs of Money, and Quantities of Plate have fallen into some Private Hands (particularly amongst the Despotick, Tarpawlin Commanders.)

For the most considerable Part of that Wealth which the *Spaniards* left, was aboard their Ships; and there was none who had either Opportunity or Conveniency to go on board the same, except the Sea-Captains, or those that were deputed by them:

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them; so that whatever Riches were found either between Decks, or in the great Cabbin, immediately fell into their Hands; and what these Summs were, 'tis impossible to determine: For, in this Case, no doubt the Captains were very silent, it being their Concern to conceal what they had got; and, without Controversie, the Lieutenants, with other Officers, and the Boat's Crew, were all very zealous to plunder for themselves. Nay, not only so, but 'tis probable that in this hurry and confusion of Affairs, some Bulk might be broke, and several things of considerable Value taken thence.

As for those Confusions and Disorders that attended the Sea-Plunderers in *Vigo*-Harbour; they were in some measure equal, if not superiour to those of *St. Mary's*; for according to that of the Satyrist, *Dat veniam Corvis, The greater Fish devour'd the less*: And we all know that in this Case 'tis in vain to offer any Argument, or to suppose that the most convincing Reason can be any Bar or Plea in Law; when he to whom the same is offered, is both Judge and Party. There's always a necessity of complying with that Power (let it's Proceedings be never so arbitrary) from which there's no Appeal; or admitting there were, that yet 'tis not practicable for such a time.

I shall add but one brief Reflection more, and it shall be that of Her Majesty's last Gracious Speech to both Houses of Parliament: Wherein Her Majesty hath been graciously pleased to declare, That
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She'll freely forego all those Advantages, which otherwise do of Right appertain to her, in order to the greater Encouragement of all those that do belong to Her Royal Navy. This certainly doth not only bespeak the Greatness of her Soul, but also that mighty Zeal and Affection, that indisputable Love and Beneficence, which Her Majesty bears to all Her Subjects: So that upon this Account I may justly say of our Queen, what once was said of that Incomparable Emperor *Antoninus Pius*; That when once he undertook to be Emperor, he then laid aside the Interest and Proprieties of a private Person, (*i. e.*) he devoted his own particular, and private Concerns for the advancement of the Publick. This is such an undeniable Instance of the Reality of Her Majesty's Affection for all Her Subjects, that I am confident there's no room left for Dispute in this Case.

Having thus finished this short, but impartial Scheme of Thoughts, I shall close all with my hearty Wishes, That Queen *Anne* may live long; and that She may never want Success against her Enemies: That Her Majesty may ever be zealous to reward Bravery and Justice, and to punish Cowardise and Villany; for this will undoubtedly retrieve our ancient Honour; 'twill furbish, and brighten, the sinking Glory of our Ancestors: This will guard
us

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us against the Insults of Haughty *Lewis*, of aspiring *France*. In short, this will strengthen our Arms; fix all our Resolutions, confirm our Endeavours, make us a Terror to our Enemies; and, at last, prove the most effectual Means, in order to procure an Honourable and a Lasting Peace.

March the 27th.

1703.

FINIS.

ERRATA.

PAGE 6. Line 9. read *Escol.* P. 9. in the Marg. r. *commoda*. P. 11. in the Marg. r. *quem*. P. 18. l. 23. r. *abundante*. P. 19. l. 20. r. *Nil*.

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The first of these is the fact that the
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1. The first part of the document is a letter from the President of the United States to the Congress, dated January 1, 1861. It is a formal communication, and it is written in a very dignified and official style. The President expresses his regret that he cannot deliver the message in person, and he explains the reasons for this. He then proceeds to discuss the state of the Union, and the various measures that have been taken to maintain peace and order.